

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20082 of 2019

Chandrika Prasad Singh, Son of Late Luchi Singh, resident of- Mangalam Colony, Bailey Road, Saguna, P.O. Danapur Cant, District- Patna.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation, Khadya Bhawan, Daroga Rai Path, Patna- 800 001.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, Patna- 1.
3. The General Manager, Administration, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, Patna- 1.
4. The Deputy General Manager, Administration Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, Patna- 1.
5. The District Manager, Bihar State Food and Civil Supply Corporation, Motihari, District- Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amrendra Narayan Rai, Advocate
For the Respondent/s : Mr. Harish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 15-11-2019 Heard learned counsel for the parties.

2. The petitioner has questioned the very initiation of a departmental proceeding against him with issuance of office order dated 16.08.2019 by the Deputy General Manager (Administration), Bihar State Food and Civil Supplies Corporation Ltd. (hereinafter referred to as the Corporation).

3. Assailing the impugned order, learned counsel for the petitioner has submitted that after his superannuation, no proceeding could have been initiated against him under Rule 28



II of the Service Conduct and Disciplinary Rules of the Corporation. He has further submitted that though under second proviso to Rule 26 III 'A' of the Rules, disciplinary action can be initiated even after retirement of an employee of the Corporation, but same can be done only if the event had taken place within four years of initiation of the departmental inquiry. According to him, the misconduct alleged against the petitioner is of 2012-13. He has also submitted that no misconduct is made out against the petitioner on the basis of the allegation made in the charge memo, inasmuch as, the rice mill in question was not selected by the petitioner to which huge quantity of paddy was supplied, allegedly, fraudulently.

4. Learned counsel appearing on behalf of the Corporation, on the other hand, has submitted that the Corporation did not have any knowledge about the petitioner's misconduct prior to collection of materials by Special Investigating Team constituted for investigating into similar fraudulent transactions. He has submitted that wrong levelling of the provision of law in the charge-sheet cannot vitiate the charge-sheet itself. He submits that the second proviso to Rule 26 III 'A' clearly indicates that the time of four years is to be reckoned from the knowledge of such event. He has accordingly



submitted that the disciplinary action initiated against the petitioner may not be interfered with at this stage.

5. I find force in the submission made on behalf of the Corporation that a departmental proceeding can be initiated in respect of an event which had taken place more than four years before initiation of such proceeding if the act of misconduct was not within the knowledge of the employer. In view of clear language of second proviso to Rule 26 III 'A' of the Rules, time of four years has to be reckoned from the date of knowledge of the event.

6. At this stage, I do not consider it apt to consider the petitioner's plea that the allegation made in the charge memo does not make out a misconduct. He shall, however, be at liberty to raise such ground before the Inquiry Officer/ Disciplinary Authority. In my opinion, no interference is required by this Court at this stage.

7. Noticing the fact that the petitioner attained the age of superannuation in 2014, and has retired from service, in my opinion, interest of justice shall be subserved by directing the respondents to conclude the departmental proceeding expeditiously within a maximum period of four months from the date of receipt/ production of a copy of this order. It is ordered



accordingly. It goes without saying that the petitioner should cooperate in the departmental inquiry and shall not seek unnecessary adjournments or become a party to delay in the conclusion of the proceeding. If any laches is found on behalf of the petitioner in conclusion of the departmental proceeding, the Inquiry Officer/ Disciplinary Authority shall be at liberty to proceed in accordance with law.

This disposes of this application.

(Chakradhari Sharan Singh, J)

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